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**From:** Atkinson, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=187C60BA04274FB28F652AE8582ABC56-CATKINSO]  
**Sent:** 2/22/2018 12:28:31 PM  
**To:** Whitehurst, David (DEQ) [David.Whitehurst@deq.virginia.gov]  
**Subject:** RE: clarity on what is in the VA house bill

Thanks please keep us posted and let me know if there is anything we can do to help move things along.

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**From:** Whitehurst, David (DEQ) [mailto:David.Whitehurst@deq.virginia.gov]  
**Sent:** Wednesday, February 21, 2018 4:49 PM  
**To:** Atkinson, Cheryl <Atkinson.Cheryl@epa.gov>  
**Subject:** RE: clarity on what is in the VA house bill

Hi Cheryl,

The only certainty I can relate to you is that the BACH rulemaking will not go before the Board at their April meeting for adoption because the legislation related to ammonia is not likely to be finalized in time for DEQ staff to execute the directives contained in the bills as they are now written. Currently, bills HB 1475 and SB 344 direct DEQ to:

“(i) identify any other states that have adopted the U.S. Environmental Protection Agency 2013 Aquatic Life Ambient Water Quality Criteria for Ammonia (the Criteria) as of July 1, 2018; (ii) identify the specific procedures and practices for the implementation of the Criteria by the General Assembly or the State Water Control Board (the Board) that will both minimize the impact of the Criteria on Virginia sewerage systems or other treatment works and be permissible under the federal Clean Water Act (33 46 U.S.C. § 1251 et seq.), including an opportunity to request consideration of alternative effluent limitations based on a demonstration by the permittee, acceptable to the Board, of the lack of appreciable harm from the discharge of ammonia to aquatic life that is present in the vicinity of the discharge or which should be present but for the discharge; and (iii) **report its findings** to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Finance Committee, and the House Appropriations Committee **no later than November 1, 2018**. The completion of such identification and reporting shall not preclude the Board from proceeding to adopt the Criteria.”

Once General Assembly is done with the legislation, the bill is sent to the Governor for approval, where the Governor may 1) sign the bill into law; 2) amend the bill and return it to the General Assembly for approval; 3) veto the bill and return it to the General Assembly, where the House of Delegates and the Senate may override the veto by a two-thirds vote of both houses; or, 4) take no action and the bill becomes law without the Governor's signature.

Here are links to summaries of the respective bills on VA's Legislative Information System. The last 2 are for amending the Water Quality Improvement Fund to allow for grants from the Virginia WQIF to be used to finance facility upgrades to meet more stringent ammonia limits and not just for TN and TP removal. The bill also requires DEQ to prepare a preliminary estimate of the amount and timing of WQIF grants required to fund

projects based on an estimate of the anticipated range of costs for all publicly owned treatment works if the Board were to adopt the 2013 ammonia criteria.

HB 1475

SB 344

HB 1608

SB 340

There is also the question of whether management will direct us to keep all elements of the rulemaking 'bundled' or whether we'll carve the ammonia criteria issue out and proceed with the bacteria, cadmium, and human health updates. At any rate, I think John's guess-timation at today's RAP meeting of Board adoption of some part, or all of the elements in December of this year is realistic.

As to the 'why'...I can only surmise that the patrons of the bills were contacted by constituents in their region that had concerns about affordability and/or the ability to finance necessary upgrades to POTW facilities to meet more stringent ammonia limits that would be based upon the 2013 criteria.

Oh...and the last triennial review public hearings were July 29 and August 4, 2015. Link to notice → <http://register.dls.virginia.gov/details.aspx?id=5024>

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**From:** Atkinson, Cheryl [<mailto:Atkinson.Cheryl@epa.gov>]

**Sent:** Wednesday, February 21, 2018 2:22 PM

**To:** Whitehurst, David (DEQ)

**Subject:** clarity on what is in the VA house bill

Hi David, sorry I am not sure what today's presentation means for your carry over. Can you provide what and when we might see the carry over WQS? It is helpful to know for scheduling of our work load and doing ESA consultation. What I think I heard is that you will not know anything until April?

And do you have any background on the HBs that are directing you to not adopt EPA's Am criteria? What or why the need for this HB?

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